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In re Application of KROZ et al :
U.S. Application No.: 10/584,438 :
PCT Application No.: PCT/GB2004/005091 : DECISION
Int. Filing Date: 03 December 2004 :
Priority Date Claimed: 03 December 2003 :
Attorney Docket No.: 31755 USA :
For: INTERLEUKIN-11 FUSION PROTEINS :

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 06 July 2006.

BACKGROUND

On 03 December 2004, applicant filed international application PCT/GB2004/005091, which claimed priority of an earlier European Patent Office application filed 03 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 16 June 2005. The thirty-month period for paying the basic national fee in the United States expired on 03 June 2006.

International application PCT/GB2004/005091 became abandoned as to the United States for failure to timely pay the basic national fee.

On 06 July 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.



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